

### **Conclusion**

Plaintiff's objections are overruled and the R&R is adopted in its entirety. Accordingly, plaintiff's application for the appointment of counsel is denied. As plaintiff has not replied to respondent's motion for judgement on the pleadings, the court sets the following amended briefing schedule: plaintiff's opposition is due November 17, 2006 and respondent's reply, if any, is due November 28, 2006.

SO ORDERED.

DATED: Brooklyn, New York  
October 19, 2006

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/S/  
DORA L. IRIZARRY  
United States District Judge